G R. S App I IX 4]

Previous References

1942 -
(ML)

File No 126-42
Serial Nos 4T 6 7 8 -
5, 6, 8

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos T 8 2 6

Part B for August 42

SUBJECT

Inspection of B city by the Municipal President and others

To,

The Md commr B city
L 1678 dt 6 8 42.

Issues enclosed instructions in the matter.

MS 23.8 42

Serial No

From

The Municipal Commissioner, Bombay

No C2 c 821/41 dt 24 2 42

Forwards the resolution passed by the city Municipal at their meeting held on 27/1/1942 to the effect that the Honorary President do arrange for an inspection of the city with the vice President the Executive Officer & the Divisional Councillors once a week, together with his team and a separate note furnished thereon by the Honorary President

1) The Municipal Commr has expressed the opinion that, for reasons given by him, the suggestion of the Municipal is neither supported by the Municipal Act nor is it practicable

2) The Honorary President has appended a note on which he urges the Govt to approve the resolution, as it would be in the interests of the Municipal administration of the city

3) The legal aspects of the case will be examined further and a note put up

4) In the meanwhile, the reference

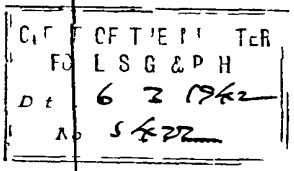
NOTE—Contn Sheet

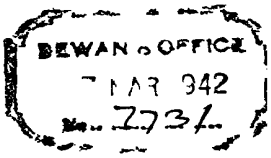
WD 02220—GPE—1 000—22 2 37

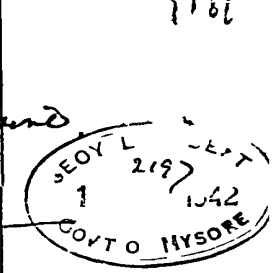
File No 5-263/2 of 193

General and Revenue Secretariat

Serial No







is submitted for kind perusal

Law Secy) 6/3/42

5) For perusal in the first instance

Minister) Hm 6/3/42
S L S G)
Dewan)

6) For 7/3/42

7) Noted 8/3/42 For 9/3/42

8) Noted The Law section may perhaps be consulted in regard to the legal point raised by the President of the Municipal Commrs

Law Secy) 13/3/42

9) May be disposed of early Hm 18/3/42

From the Mnl Commr, Bangr, thro DPI
No CR C 821/41 dt 16-3-42 submitting for forwards an extract from the proceedings of the Spl meeting of the Mnl Council held on 25/2/42 authorising the President to take the Mnl Engineer & the Health Officer

Inspecting the Bangalore ... by the ...

5188/41 52630 551/L (3

General and Revenue Secretariat ML File No of 1941/42 [App F III—2

Serial No

after or both of them during the inspection

10) The ML Commr states that this authorisation involves dual control over the staff & further investment of executive power in the President (as already stated by him in his letter dt 24-2-42) which is not contemplated by the Act, & that the dual control will not contribute to efficiency.

11) The Commr also states that the resolution is ultra-vires & that it may be vetoed

12 Submitted for order

13) For perusal

18/3

14) The file will be sent for the Law section for an expression of opinion on the legal points raised both by the President & the Minister, if necessary

yes early

Law Secy) 19/3/42

15) For perusal

Minister (L S G)

Hon 2 19 3 42

Hon 22 3 42

Hon 23/3/42

Asst Secy, Law Section 24.3.42 WR

Hon 23/3/42

EOY L / EPT 2345 — 1 2

CFF E O T SECT ? FD L S G & P H Dt 19-3-1942 N 5724

Legal Opinion File No. 197 41-42 dt 24/3/42

Note—Contn Sheet

W D 04155—G1 B—55 000— 3 10 41

File No of 194

General and Revenue Secretariat

Serial No

16) 1 The point at Issue in this case is whether the Resolution passed by the Council on 27th January 1942 is ultra vires or not ? (Flag L)

17) 2 By this Resolution the Council requests the President to arrange for City Inspection once a week This function is one of the executive functions of the Municipal administration

18) 3 No doubt under Section 22 (1) the Municipal Government vests in the Municipal Council except as otherwise provided for in the Act In Section 22 (2) it is expressly provided that in a Municipality, where there is a Municipal Commissioner "the executive power for the purpose of carrying out the provisions of this Regulation vests in the Municipal Commissioner' but this power is vested in the Municipal Commissioner with certain reservations as seen in the Section

19) 4 It therefore follows that those powers which are expressly conferred solely on the Municipal Commissioner by the Statute, cannot be interfered with by the Municipal Council

20) 5 Let us now see if the power to inspect the City solely vests in the Municipal Commissioner or not?

21) 6 No doubt, under Section 49 of the Act the Municipal Council has power to determine by framing rules the executive functions to be performed by the President but this power is not absolute It cannot be [illegible]

5

Serial No

exercised against the express provisions of the Act or the rules framed by Government under Section 228 "A Municipal Corporation possesses such powers and such only as the statute creating it confers upon it the statute being the 'measure of its powers", It therefore follows, that the power of the Council to determine the executive functions of the Presider is confined to those, and only those functions whicl are not under the statute already determined

Under Section 24 (1) of the Statute, the sound of functions of the President have been already determined So far as this case is concerned, the President has under Section 24 (1) (b) and (e) the power to 'watch over the executive administra tion of the Municipal Council' and to 'exercise supervision and control over the Acts and proceedin of all officers and servants of the Municipal Counci in the matters of executive administration" Hence it follows that the Municipal Council cannot under Section 49 frame any rules contrary to Section 24 of the Act But where the Municipal Commissioner is appointed the powers of the President under Section 24 (1) (b) and (e) shall be performed by the Commissioner and not the President (Vide Sectio 245 (1) of the Act

22) 8 Thus, in Bangalore, the Municipal Commissi

NOTE—Contn Sheet

WD 04155—GPB—55 000—23-10-41

Serial No

is the person authorized under the statute to "watch over the executive administration of the Municipal Council" and 'to exercise supervision and control over the acts and proceedings of all officers and servants of the Municipal Council in matters of executive administration" But this authority is subject to the provisions of the Act

23) 9 Under Section 29 (2) of the Act every Councillor has got a right to interpellate the President and to move resolutions on matters connected with Municipal administration When an individual Councillor is vested with this right I think, the Council as a body can exercise the right under Section 29 (2) of the Act Municipal administration is a wide word and includes executive administration, and inspection of the City is a part of the work relating to 'executive administration", and as such I feel that under Section 29 of the Act the Council has the right to question the President and to move a Resolution for the inspection of the City, which is a matter connected with Municipal administration

24) 10) I therefore do not think that the Resolution in question is ultra vires By the Resolution the Council requests the President to arrange for inspection parties once a week 'in order to facilitate the easy and early disposal of the needs of the locality ' and

(7

Serial No

the President has sent up the said Resolution to the Commissioner, for necessary action

25) 11 So far, I think, the President is in order, and the Commissioner may arrange for inspection of the City once a week as suggested by the Council in the Resolution But by virtue of the Resolution, I do not think, the President of his own accord and independently of the Commissioner can arrange for inspection, he can only do so through the Commissioner

26) 12 But if the Council thinks that it has powers to order "inspection of the City" by the President alone independently of the Commissioner, then the Council is wrong The Act does not contemplate such a course of conduct - because by doing so, then there will be "dual control" as suggested by the Commissioner in his letter

27) 13 I feel that it was not necessary for the Commissioner to have sent this Resolution to Government But as it is now sent by him, the Government may approve of the Resolution, with a direction that the President can put into effect the Resolution in question through the Commissioner, and under his direction and not independently of the Commissioner

28) 14) It is suggested that when the Council can appoint its City Improvement Committee, why should

NOTE—Contn Sheet

File No | of 194 | General and Revenue Secretariat

Serial No

it will appoint a City Inspection Committee? Ch VII part 2 deals with the appointment of Committees, & the Council can appoint Committees, & then the managing Committee, under Sec 31 of the Act. But the Council can only delegate their powers to the Committee concerned, which are vested in them under the Statute, & if they exceed those powers, then their act would be ultra vires. I have already stated above, that the Council has no power to act - Authority & Sec 22 (2) of the Act. & the City Inspection is an executive function, & vests in the Commissioner, & the Council cannot override their function & the Commissioner

Law Secretary 26/3/42

29) The Bangalore City Municipal Council has passed a resolution thus - "This Council resolves that the President be requested to arrange for inspection parties consisting of the President, Vice President, Municipal Commissioner, Municipal Engineer and the Health Officer, with the respective divisional Councillors over the several divisions, at least, once a week in order to facilitate the easy and early disposal of the needs of the locality" This resolution has been sent by the Municipal Commissioner to the Government and in his opinion, the resolution of the Council is neither supported by the provisions of the City Municipalities Act nor is it practicable The President is of the opinion that the resolution is in order

Serial No

3b) The question for consideration is whether the resolution is in order and may be approved by the Government Section 24 of the Mysore City -- Municipalities Act, 1933 deals with the functions of the President Clauses (b) and (e) of sub-section (1) of Section 24 specially deal with the executive administration of the Municipal Council and the exercise of the powers of supervision and control over the acts and proceedings of all officers and seryants of the Municipal Council and that is the section vhich also contemplates the supervision and inspection by the President Section 245(1) of the Act lays down that these powers of the President can be exercised only by the Municipal Commissioner, if such a Commissioner exists in a Municipality Hence it is the Municipal Commissioner that can exercise the powers of the President under clauses (b) and (e) of sub-section (1) of Section 24 and not the President by virtue of Section 245(1) Such being the case, neither the Municipal Council nor the President can take away the statutory power given to the Municipal Commissioner by means of a resolution like the one under question Moreover, if there is to be delegation of executive functions as between different officers, that can be done only by th Municipality framing rules or bye-laws under Section 49 clause (b) of the Act The Municipality has not done this Such being the case, the resolution is ultra vires of the Act [illegible]

NOTE—Contn Sheet

5906/41

5511

File No | of 194 | General and Revenue Secretariat

Serial No

Commissioner and The Government, in the above circumstances, cannot give their approval to the same

Minister
L J G

Hm
2
2/4/42

3
2/4/42

OFFICE OF THE I T R
FO L S G & P H
Dt 4 4 1942
No 6028

31) What is the position in Madras & Bombay as regards commissioners

Secy
27 4 42

Hm
2
28/4/42

32) Madras & Bombay Acts may please be sent

Asst Secy
Legs
Lre

3
28/4/42
Hm

Marked - attnc
x x x

33) Send the books referred to above are sent up

Law 222
30 4 42

Asst Legs Law Lre

28/4/42

3
29/4/42

18
29/4

Serial No

Bombay

34) 1) As for Sec 4, the Municipal Authorities Chargeable carrying out the provisions of the Act are —

a) The Corporation

b) The Standing Committee

c) The Municipal Commissioner

The Mayor in Bombay corresponds to our President — but under Sec 37, it is the Corporation that appoints a Mayor from amongst their members The Commissioner, under Sec 54 is appointed by the Executive Council, as our Commissioner is appointed by Govt Under Sec 64(3), the entire executive power vests in the Commissioner, subject to restrictions provided for in the Act- He is exactly like the person in our Act- A perusal of the Act, shows that it is the Commissioner who is the Chief Executive authority & any acts in the executive line is to be got done by the Corporation, it is through the Commissioner, who is also removable from office, like the person in our Act-, by a certain majority of votes in a Corporation

NOTE—Contn Sheet

S 906 5 6452

Inspection of the Bangalore City by the President and others

File No | of 194 | General and Revenue Secretariat

Serial No

Madras

35) The Madras Act also is, more or less, on the lines Similar to the Bombay Act - vide Sec 4 Sec 7 - Sec 9 & Sec 28 - Here too the Chief executive Authority is the Commissioner as in Bombay & also in Nagpur

36) Hence if the Leaguer or the President desire to inspect the City, it can be done through the Commissioner It is not there that even in Bombay or Madras, a Leaguer can independently of the Commissioner, interfere with the executive functions vested in the Commissioner under the Statute

37) In this respect there does not seem to be any material difference between our Act, & the Bombay & Madras Act -

Law Secretary) 3/2/6/42

File containing the minute of the Dewan asking for these papers is also herewith (D any no 6452) linked 3/6

38 Papers submitted for kind perusal & orders with reference to Para 31 above

Minister for L S G) 3/8/6/42

39) Under the Act the Commissioner is no doubt the chief Executive authority and issues [illegible]

Serial No

DEWAN'S OFFICE
31 JUL 1942
NO 1174

joint inspections do not take away the commissioners powers, but on the other hand they may lead to better attention to the defects and drawbacks in the municipal administration. As I have opined in another file, I consider it desirable to have joint inspections may be carried out if the resolution of the Council may be approved

Dewan) 31/7/42

2. The resolution does not require the approval of Govt, I think we may inform the Council that Govt see no objection to the proposed joint inspections for which he should give all reasonable facilities. Inspection by itself does not involve the exercise of any executive powers which are vested in the Commissioners

DLL 2/8/42

415 3/8/42

OFFICE OF THE MINISTER FOR L S G & P H
Dat 2-8-42
No 1165

NOTE—Cont Sheet

WD 04176—GPB—55 000—23-10-41

Inspecting Employees by the President
1204

File No 126 of 1942 — General and Revenue Secretariat

Serial No

Submitted with a draft letter for appl—
For approval
Lawrence 4/8/42

SECY L 1398 EXT
YSORE

4/8/42

4/8/42

To the ml Commr, Bdgr. thro Pak 8
No L 1678 dy 6-8-42
Issues instructions in the matter
6/8/42

BANGALORE CITY MUNICIPALITY

No C2-C821/41

Encl 8X

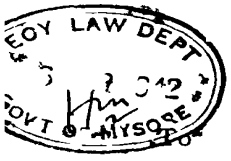
MUNICIPAL OFFICES

Bangalore 24th February 1942

M 126-42-5 5263/2

From

ABDUL AZIZ KHAN ESQ., B.A.,
MUNICIPAL COMMISSIONER
BANGALORE CITY



H V Narayana Rao, Esq, B A, LL B,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE
LAW DEPARTMENT BANGALORE

SIR

In forwarding herewith a copy of the Council Resolution dated 27-1-1942 stating that the Honorary President do arrange for inspection parties with the Vice-President, the Executive Officers and the Divisional Councillors over the several Divisions of the City, once a week at least, I have the honour to state as follows -

Section 22(2) of the Mysore City Municipalities Act 1933 lays down that, in a Municipality where there is a Municipal Commissioner, the executive power vests with the Commissioner and powers under Sec 24(b) and 24(e) of the Act are also exercisable by the Commissioner under Section 245(1) and power of inspection being an executive one, it vests with the Municipal Commissioner and this is not one of the powers of the President under the Act

Further, I have sent copies of my programme of inspection to every Councillor and have also said that they may, if they like, accompany me on my rounds In addition, I have also arranged for a joint inspection of the City with the Health Officer and the Municipal Engineer once a month, and the Councillors will be intimated that they may also join me in this inspection If action has to be taken as per the resolution of 27-1-1942. it would mean the dislocation of the work of the Executive considerably. since they will have to be going round for the joint inspection once a week As some of the Councillors are joining me in my rounds and as things are being attended to on the spot during our inspection, I am of opinion that the suggestion of the

Council

of the Council is neither supported by the Municipal Regulation nor is it practicable

I have the honour to be,
S i r.
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments,
with a separate note

Honorary President

svs

No 22/41-42

Minutes of the Proceedings of the Adjourned General Meeting of the City Municipal Council, Bangalore, held on Tuesday the 27th January 1942 at 5 p m in the Council Chamber of the City Municipal Offices, Bangalore

-- oOo --

Present

Hanumanthaiya, Esq , B A , LL B ,
Honorary President

1 Mr V K Govindarajulu, B A , B L
2 " J H Anuranthappa
3 " R Subbarna
4 " Ramalal Bhiwani
5 " L C Raju, B A (Hons), B L
6 " V Venkataramanappa
7 " G Nanjappa
8 " T Gangadharaswamy
9 " B Narasimhiah
10 " V Venkatasami Chetty
11 " K Ganga Setty
12 " C N Ramaswami, B A
13 " K Shamarajaiengar, B A
14 " M A Gopalaswami Iyengar, M A , B L
15 " M R Honnappa, B A , B L
16 " M A Narayana Iyengar, B A , B L
17 " H C Suryanarayana Rao
18 Dr M Royan, M D

Absent

1. Mr M Kesavaiengar, B A , B L
2 " H R Guruv Reddy, B A , LL B
3 " B Subbiah, B Sc , LL B
4 " Kota Lakshmikanth Setty
5 " O S Asarulla Sheriff, M A , LL B
6 " Mirza M Azizulla Beig
7 " S N A Razvi
8 " A J Khalcel, B A , B L
9 " V Chikkayellappa
10) &) 11) V a c a n t

-- oOo --

PROCEEDINGS OF THE BANGALORE CITY MUNICIPAL COUNCIL .

DATED 27th Jany 1942

=o=

Subject No 5 -

Mr B Subbiah to move -

"That this Council resolves that the President should arrange inspection parties consisting of the President, Vice-President, Municipal Commissioner, Municipal Engineer and -- Municipal Health Officer over the several divisions atleast once a week in order to facilitate the easy and early disposal of the needs of the locality'

=o=

Mr V K Govindarajulu moved and Mr M K Narayana -- Iyengar seconding observed that the words 'should arrange -- inspection" after 'President" be deleted and the words "be - requested to arrange for inspection" be inserted, and the -- words "over the several divisions" be replaced by the words "over the several divisions' and the amendments were accepted by Mr V K Govindarajulu

Mr G Nanjappa then moved that the words "with the respective divisional Councillors' may be added after the words "Health Officer' and this was also accepted by the - mover

Then the following amended proposition

"This Council resolves that the President be requested to arrange for inspection parties consisting of the President, Vice President, Municipal Commissioner, Municipal Engineer and the Health Officer, with the respective divisional Councillors over the several divisions, atleast, once a week in order to facilitate the easy and early disposal of the needs of the locality "

was approved by the House

SD K HANUMANTHAIYA,

Honorary President

======

"Copy"

Municipal Commissioner

kas/

Forwarded with compliments

The Municipal Council and the President do not agree with the Commissioner in his view that the resolution of the Council relating to Joint Inspection is " neither supported by the Municipal Regulation nor is it practicable

The Commissioner points out that under Section 22(2) that where there is a Municipal Commissioner, the Executive power vests with him He has half quoted the sub section His powers are not absolute That sub section makes it clear that his executive power is " subject, wherever it is in this Regulation expressly so directed, to the approval or sanction of the Municipal Council and subject also to all other restrictions, limitations and conditions imposed by this Regulation "

Section 22(1) in vesting the Municipal Council with the Municipal Government of the Municipality, except as in the Act otherwise expressly provided, has vested all the residuary powers with the Municipal Council The Commissioner is entrusted with delegated powers for the purpose of carrying out the work of the Municipality.

Section 49 further clarifies the position and powers of the Municipal Council The Municipal Council is empowered to make rules, not inconsistent with the Act or with the rules made by the Government under Section 228, in the matter of delegating its powers and duties (a) determining the executive functions to be performed by the President etc , and the delegation of any of its powers or duties to such persons, and (b) framing rules generally for the guidance of its officers and servants in any matters relating to the Municipal Administration Under Section 51, the Council can make, alter or rescind bye-laws This authority to make rules and bye-laws presupposes that the Act places the powers in these matters in the hands of the Council

There is no provision in the Act which directly or indirectly prevents the Council to inspect the City Since

Since the residuary powers are with the Council, the Council is fully within its rights in passing the resolution in question

The Council presided over by the President passes resolutions and takes decisions at every one of its meetings relating to the duties and responsibilities entrusted to it by the Act It is reasonable to presume that that Council has power to go and see if it thinks fit, whether its resolutions and decisions are carried out properly by its officers It is equally reasonable to presume that that Council has power to see the various places in the City so that it may ascertain the needs of the places on the spot and pass resolutions and take decisions at its subsequent meetings The Commissioner, the Health Officer and the Engineer attend the Council meetings and the same principle makes it obligatory on their part to go round with the Council on a round of inspection, if the Council so desires If the Council can inspect the City with its officers, a Committee appointed by it for the purpose can do it also

Besides, Section 29 of the Act authorises a Councillor to call attention of the proper authority to any neglect in the execution of the Municipal work, to any waste of Municipal property or the wants of any locality and to suggest any improvements which ~~one~~ he considers desirable. The intention of this section can be most satisfactorily fulfilled if the Councillors and the three principal officers of the Municipality are present on the spot for the purpose The joint inspection contemplated by the resolution provides a regular, methodical, effective and speedy disposal of the suggestions made and defects pointed out

When the resolution was passed, there was no co-ordination between the inspection work of the three officers. They were going separately for their inspection work 27 days after the resolution was apssed, the Commissioner has ~~xx~~ issued a memo, a copy of which is herewith enclosed, taking the idea but not the spirit of the resolution The President and the Vice-President are no where in the picture. The memo fixes

fixes a joint inspection, by the officers at least once a month There are nine Divisions in the City It may take about nine months for all the divisions to be blessed with an inspection each Besides, what the Council directs has to be done, while what the memo of the Commissioner contemplates may be done The Council resolution directs joint inspection at least once a week Even then each division can be inspected only once in nine weeks and it is not possible to inspect every part of the division in one inspection Hence an inspection a week cannot be said to be too frequent

At present, the three officers do inspection work every day in the week, except on holidays A copy of their programme is herewith enclosed What they do separately, they can do jointly without any extra burden of time or work, once or at the most twice a week I do not understand how by such a joint inspection, their work will get dislocated as the Commissioner fears

The Commissioner has raised the question of the powers of the President I do not now propose to dilate on the point, though I do not agree with him, as problem under consideration has emerged not at the instance of the President but at the instance of the Council The only question is whether the Council resolution is intra-vires The Council constituted a City Improvement Committee, of which the Commissioner is a Member and the President is the Chairman, by virtue of his office The President convenes the meetings of the City Improvement Committee and the Commissioner follows the Committee on its rounds A Council which can appoint a City Improvement Committee can very well appoint a City Inspection Committee, and the Commissioner can equally willingly accompany the Committee with the other two officers

I feel and the whole Council unanimously feels that this joint inspection will do immense good It will tone up the administration, make the Councillors and the officers more alive to the needs of the locality and what is more, will bring better satisfaction to the people of the City

The Resolution of the Council was passed unanimously Dr Royan, an Ex-President, strongly supported it The Act allows such a resolution to be passed, and commonsense commends it

The resolution was passed about a month ago and the Commissioner declined to implement it, inspite of my request He could have agreed to the Joint Inspection tentatively, as I suggested, pending Government Orders in the matter He did not agree even to this suggestion I am enclosing herewith a copy of the memo I sent to him and his opinion thereon. He delayed 28 days to write the accompanying letter to Government Nothing would have been lost if the Commissioner had agreed to joint inspection tentatively.

I pray that the Government of His Highness the Maharaja be pleased to pass orders approving the resolution of the Council in the interests of the municipal administration.

I am herewith enclosing a copy of the summary of the discussion that took place in the Council subsequent to the passing of this resolution for kind perusal

K Hanumantha Rao

Honorary President

L t- c ıjon t Mı t es o e Proce in ı oı ıe Ordı aı / Ge eıa l ı e t ı oı t e Cıt / a ıcıp l Co cıl Ba (alo e, hela o Saturde the 1a t Februar / 19

Y X x

Mr V I G a aarajulu aıtea to oı t hat h a lep enea to their resolution regarda g t ıe joıt ı pec ioı oı t e Presiaeı with the Lxecuti e, t ıe Vice Pıe ıae ı ıc t ıe Divisio al Councillo ı ıne Presiaent i ıormea t ıe House ıe t he n d se ıt in a remo to the Commissio eı ı qu ı ıı hım to fix two ca s - t ıe wee ıoı joı ı ıspec ioı ı c t ıat t ıe Co mis ioner had replied t ıa t as he ca ıo ıov t ıe Sec ıo u der ıuch t ıe Presıae t coula exeıs exeıcise t ıe povers of Inspec ioı he ıs a ı ıng oıaers oı Gaxexnmeay Gover ıe ıt i t ıis ıe ıı

The Co ıs ıoıer explaıned to the Hou e t ıa t ıe Cou ıcil was a delıbera ıve bou wi t ı no exec ıtive fu ctıone t ıa t ınspexion as o e of t ıe e ecuti e fuıctıo ı ı c ıerce le aıtea t e opınıo ı oı t ıe Government ii t ıe ma ıtel He ı lso sa ı t ıat e was aware t ıe t t ıe Mu ıcipal Co cıı ar a v ole w s t ıe supre ı authorı t ın mu ıcıpal ı t ers ou t wı ıer t ıe sa e ı ı h c uld be claıı ea o ev r me ber oi t ıe t bodj was a ma t tel oi opı ıoı He ı ıo ıed t ıe house ıt t ıe ıea co ıcea ıa pıogıaıme oi ı spections to evei j mea ber i t ıe house ha he had o oo,ecıı o out ra t ıer ı elcoıed ıi t ıe xex me bers accomp ıie ıim o ıs rouıas ıa t ıet so e oi them ere ac ıa llj ıoi g t ı ı o ıs ı spec ıo s ıu t t ıe oıl j poı t ıe e he diıı ıea was v ıe ıer ever j mea ber ın t ı House could exeıcise t ı po ers ı spec ioı ard ask t ıe e ecıive to ollo ıim wıe ıer he ıı t oı ı spec ıo He said that ı t ıis as to be e ıea as a ma t tel oi policj, ıe ordeıs oi Gover ıe t were necessaıj bu t ii it was o lj a m ıei oi cour t sej he e ver xx illiıg to ta ıem i ı ıı oi ıe rouıas

Mr K ola ıaraja I ıger obsevea t ıa t ıe Lxecuıive e t h e to ca ıı ou t the resolutio ı oi the Co cil t ıa t ıe ever t ıe ıa t ea t ıem to co ıe ı i h t ıe it as no t to oıaeı t ıı to do so a ıa so,bu t to poi t ou t ı ceıe ı ce ı o ı ı on t ıe e o so t ıat ımmedia te ıeli ı coula ıe ı e o t ıe ıesıae t i ıose

t ose pla ces a d t at the Executive ha e ear this i i a f w
& r e set l e foo

Di o n speak n ext explain e the practice i vo ue
said that if it as a q es io of perso al dig it and ho our
as out right t at t e C mmissioner should st a d up to his ow &
if it as a ma ter affecti g t e Pre ide t or an e ber of t e
House, he was t e last ma to yield He said that it ould be
practically impossible to carry o any hing if no harmony exist d
et ween t e Executive a d e Cou cil, that a joi t i s ection o
he P esident t n E ective a d e Councillors ould result i
direct disposal of ma ters and that fro this po t of view, it as
very desi a le to have such a inspectio He said that he coul
unde st nd the po t of the Com i ioner i ass i g for t e rule or
u der which the President t e members claimed t e ri t of
inspec ion ou the i ar ect the welfare o the Ci such n
relating to red tapism need not be su es ed and the whole thing
should be viewed in a le ie t manner, and in a spe tive and
coopera ve spi it He i al y said that there w s o use in
creating disharmony in such matters a d he should hope all view
the ma ter in a broad way

x x x x x x

As e t e joi t i spection que tion, Mr L S Raju said that
it as no doubt true that the Act was defec ive i many ways bu
this should ot be ta en to mean that the Cou cil had no powers
and that it as o l a deliberative body He said that in their
academic discu ion they should ot forget the i terest o the
Ci and that he ould like a change of heart o t e pa t o the
Cou cil and the Executive He said that the Executive should ot
take the resolution as to be a com and but should clearly under-
stand that they are public workers and that if a sincere endeavour
cooperation between the Executive and the Cou cil they could do
much for the welfare of the Ci He went on to say that since
there was a good deal of doubt in the minds of the public that
there was very little har ony between the Executive and the Council
he thought in pection method as the best way to clear such a
doubt He said that it was not the la e of the law that

that was to be considered by the should take the spirit of the Law and work harmoniously to xxxggodxxxthe good of the people with a sense of give and take policy and goodwill He finally said that what he had expressed so far would be correctly understood and that there would no be no more room for any such talks in future

x x x x x

Mr H A Gopalswami Iyengar speaking next about the joint inspection said that under Sec 22 of the Act the Municipal administration vested in the Council and the Executive functions were exercised by the Commissioner, if there was one Under Sec 29 of the same Act every elector had a right to offer suggestions to the Executive and under Sec 49(b)(i) the Council could determine the executive functions of the President and other Officers of the Municipality Again under Sec 51, the Council was competent to make regulations for its working and under Sec 214(b) it had the power to exercise all the powers of the Act Also when it could form a Committee like the City Improvement Committee that could prevent its forming a City Inspection Committee with the President as its Chairman and where the Commissioner could go round with the President as a member of the City Improvement Committee, why not he do so as a Member of the Inspection Committee also? He finally said that it was better everything as viewed broadly and they worked in harmony and good will for the good of the City

xx xx

Sd/- K Hanumanthaiya,
Hon President

"Extract
K Hanumanthaiya
Honorary President

PROGRAMME OF INSPECTIONS

___: DAYS	COMMISSIONER	HEALTH OFFICER	MUN ENGINEER
Monday	I & IX Dns	VII Dn	VII & VIII Dn
Tuesday	III	IV & V	II, IV & V
Wednesday	IV & V	I & IX	III
Thursday	VI & VIII	II	I & IX
Friday	VII	VI & VII	III & Buildin
Saturday	II	III	VI

K Hammarskjöld

Honorary President

Memo No P C 35/42 dated 23rd February 1942 from the Municipal Commissioner, Bangalore City, to the Honorary President, City Municipal Council, Bangalore

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I think it desirable that all the officers should jointly inspect the City at least once a month, so that any small things can be settled on the spot without entering into correspondance The Municipal Engineer and the Health Officer are requested to accompany me during inspection on a day to be fixed later in the First week of every month

Any Municipal Councillors who wish to join us may do so Due intimation of the division to be inspected will be sent to them beforehand

---

"Copy"

K Hanumanthaiya

Honorary President

Copy of Memo dated 2nd February 1942 from the Honorary President, City Municipal Council, Bangalore, to the Municipal Commissioner, Bangalore City

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The Municipal Council at their meeting held on 27-1-42 have approved the resolution of Mr B Subbiah that the President should arrange to for periodical inspections of the several divisions with the Executive Officers, viz , Municipal Commissioner, Health Officer and the Municipal Engineer, and the Vice President and the Divisional Councillor at least once a week to give immediate relief to the people of the locality

The Commissioner is requested to suggest two days in the weel for the purpose of implementing the resolution of passed unanimously in the Council

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Commissioner's reply to the above

" With Compliments Orders of Government may be awaited on the subject "

" This resolution is one which can be put into execution immediately and I do not suppose that the Government will be pleased to see any illegality in it The Commissioner is requested to cooperate in carrying it out forthwith If the Government takes a different view on his representation, the Council will again consider the resolution in the light of the Government directions The Commissioner is therefore requested to suggest two days as requested

Sd/- K Hanumanthaiya,

14-2-42

' C O P Y "

K Hanumanthaiya

Honorary President

BANGALORE CITY MUNICIPALITY

551/2

No C2 C 821/41 MUNICIPAL OFFICES,

Encl two Bangalore 9th March 1942

MI 126-42-10

From

ABDUL AZIZ KHAN ESQ B A.
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

H V Narayana Rao, Esq , B A , LL B ,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE
LAW DEPARTMENT BANGALORE

In continuation of my letter No C2 C 821/41 dated 5th March 1942 forward ng for orders of Government a copy of the resolution of the Municipal Council dated 27th January 1942 in connection with the inspection of the Municipal Commissioner and other executive officers along with the President and other -- members of the City Municipal Council, I have the honour to forward herewith an extract from the minutes of the Proceedings of the special meeting of the Council, held on Wednesday the 25th February 1942 at 4 P M authorising the President to take the Municipal Engineer and the Health Officer either or both of them during his inspection and to state that this authorisation involves dual control over the staff and further investment of executive power in the President (as noted in my previous letter) which is not contemplated by the Regulation The dual control will not contribute to efficiency The resolution therefore appears to me to be ultra-vires and the same may kindly be vetoed

I have the honour to be,
Sir,
Your most obedient servant,

Forwarded with compliments,
Dissenting note accompanies
K Hanumantharayya
Honorary President

A A Khan
Municipal Commissioner

President's Note

The objections raised by the Commissioner to the resolution of the Council authorising the President to take the Health Officer and Municipal Engineer, either or both of them, during his inspection, are untenable The practice all along has been that the previous Presidents have been taking these officers with them, whenever they wanted Many a time, the matter to be attended to, may be a minor one which does not require the presence of all the three principal officers of the Municipality For a road repair, a visit with the Engineer, and for clearing a drain chokeup, a visit with the Health Officer, would do The Commissioner need not be asked every time to accompany the President' Things are being attended to in this manner, at the instance of individual Councillors or the President It is too late in the day for this Commissioner, who seems to be not well conversant with the law and practice of Municipal Administration, to question this useful, established and healthy way of doing things

The need for passing the resolution in question arose under the following circumstances The Council had resolved on 15th January 1941 that the Seshadripuram Sports Club might be permitted temporarily to utilise a playground in that place The Secretary of the Club wrote to me on 16-1-1942 requesting the Municipality to level up the ground at its expense I wrote in reply that I would inspect it When I went to see the playground, the Municipal Engineer and a Municipal Councillor. came with me After inspection, I wrote on the concerned file "with compliments to the Commissioner Saw the place with the Municipal Engineer and Mr H C Suryanarayana Rao The playground deserves to be improved ". In reply, the Commissioner has written on the file, with compliments Kindly point out the provision of law under which you can do executive work and take the Engineer with you without my knowledge or permission " I did not think it worth while to answer the Commissioner's obviously untenable objections

The resolution in question was passed to save the Municipal Engineer and the Health Officer from embarassing situations arising out of the President's calls and the Commissioner's counter ~~stay~~ orders. The Commissioner did not give the benefit of his --

his opinion then, but subsequently has taken upon himself the onerous duty of advising the Government to veto the resolution.

My note sent to Government in connection with the Joint Inspection resolution, goes to show that the resolution in question is in order. Mere taking of the Municipal Engineer and the Health Officer now and then cannot be construed as amounting to dual control, which impairs efficiency. There is no use in killing a healthy practice, long established, with frightening phrases like, "dual control" and "executive powers". On the otherhand it would be conducive to the efficiency of the Municipal administration if the Commissioner realises that he is the servant of the Municipal Council and is in duty bound to render loyal obedience to its resolutions and directions, so long as they are not vetoed by the Government. It is a strange spectacle for a Local Self Governing Body of the eminence and duration of the Bangalore City Municipal Council, to see one of its servants questioning its authority to speak to its other two servants.

But I am hopeful that the law, practice and convenience are on the side of the Council resolution which was unanimously passed. The Government may be pleased to kindly approve the resolution and issue necessary directions to the Commissioner in the matter.

K. Hanumanthaiya

Honorary President

Minutes of the Proceedings of the Special Meeting of the City Municipal Council, Bangalore, held on 25th February 1942 at 4 p.m. in the Chambers of the Council.

Present

K. Hanumanthaiya,Esq ,B.A.,LL B

Hon.President.

Messrs. V.K Govindarajulu,B A B L
M.H Hanumanthappa
R. Subbanna
N. Keshaviengar,B A.,B.L
Ramalal Thiwari
L.S Raju,L.A (Hons) B.L
G. Nanjappa
T. Gangadharaswami
B Narasimhiah
V Venkatasami Chetty
K.N. Ramaswami,B A
K. Shamaraja Iyengar,B.A.
M.A. Gopalaswami Iyengar,M.A.,LL.B
Dr Kamala Ramachendriah
M K. Narayana Iyengar,B A.,B.L.
H C. Suryanarayana Rao
A R.A. Basith
H.B. Mahamed Khan

Absent

Messrs V Venkataramanappa
K Ganga Setty
H R. Guruv Reddy,B A ,LL B
M R Honnappa,B.A.,B L
B Subbiah,B Sc ,LL.B
Kota Kamakshiah Setty
O.C.Nasarulla Sheriff,M A.,LL B.
Mirza Azizulla Beig
Dr L Royan,M.D
V Chikka Yellappa

1 Vacant

x x x

Mr L S Raju then moved that 'this Council resolves that the President is authorised to take the Municipal Engineer and the Health Officer, either or both of them, during his inspection of the City whenever he thinks fit or necessary to do so', and while doing so, he said that this did not mean that the President had no such powers, but he wanted to strengthen the hands of the President by a resolution since there was some doubt as to whether the President could take these officers for inspection He said that since the real interest of the City was suffering on account of these academic discussions, he wanted this resolution to be approved so that little doubt that existed might be removed He also said that there was no good in the President and the Executive having misunderstandings on trivials

Mr V K Govindarajulu seconded the above proposition and said that this resolution need not give room for any -- doubt in the minds of the members that the President had no such powers before and that they are delegating such powers only now

Then the resolution was passed unanimously

Sd K Hanumanthaiya,
Honorary President

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"Copy"

Municipal Commissioner
2

kas/

6452/41 P

7204/L

DEWAN'S MINUTE

FILE No 194

Bangalore, 26th May 1942

I shall be glad to see the papers relating to the proposal made by the Municipal Council for the periodical inspection of Mohallas by the President and the Municipal Councillors

Law Secretary)

1) Submitted for perusal

2) The file relating to the joint inspection of the Divisions in the Bangalore City by the President of the Municipal Councillors along with the Municipal Commr, The Health Officer & the Municipal Engineer has been referred to the Law Section on 29.4.42, for an examination of the question as to the position of the Municipal Commissioners in Madras & Bombay City Corporations, as directed by the Finance Secretary. That Branch will be requested to put up the file.

Law Secy 29.5.42

Asst Secy Law

6452

Reference is invited to para 2 of the Submitted in continuation of the main file

× S 906 / P 41 Asst Secy Law 29/4

Please see on 3/6/42

Secy 1/6

3/

The main file has been submitted to the Law Secy to-day

Kiran 3/6

Gupta

The file is submitted for kind perusal.

Dewan) 3/6/42

-- CE

D-

2 JUN 1942

10565

Secy I should like to see the papers again before issue of final orders

Secy 4/6/42

Please put the file below, for orders of the Law Secretary, after he returns from leave

3/6/42

As the Law Secretary is on leave the linked file is submitted for perusal & orders

Asst Secy for Secy L S 8/6/42

OFFICE OF THE MINISTER
FD L S G & P H
Date 9 6 1942
No. 7686

Wire orders in the linked files

Appendix F G—1]

SUBJECT

Section ML
File No 126-42
Serial No 8

Diary No of letter replied to

No L 1678

To

The ML Comm, Bay (thro the Pol)

Sir.

With reference to the correspondence ending with your letter no C2 C 821/41 Dy 6-3-42 forwarding for orders of Govt certain resolutions passed by the ML Cl on 27-1-42 & 25-2-42 in regard to the Joint inspection of the city by the Pdt and other members of the city ML Cl along with the ML Comm and other Executive

General and Revenue Secretariat

( )

the *19*

Date of issue 6/8/42

Signed by for C R Rao

List of enclosures

Copied by

Examined by

WD 086—GPB—40 000—30 7 40

officers of the civ Mdf,
I am directed to state
that Govt see no objection
to the proposed joint inspection,
for which you should
give all reasonable facilities
Govt, also consider that inspection
by itself does not involve
the exercise of any executive
powers which are vested in
the Mil Comm.

I have etc

Asst Secy to Govt
War Dept